



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2013-0013; FRL-9777-5]

#### **Approval and Promulgation of Air Quality Implementation Plans; Maryland; Removal of the Mount Saint Mary's College 1979 Consent Order**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Maryland Department of the Environment (MDE) pertaining to the F. Keeler Company Boiler at Mount Saint Mary's College. This revision removes the Mount Saint Mary's College 1979 Consent Order (1979 Consent Order) from the Maryland SIP because the coal-fired F. Keeler Boiler has been modified by removing the coal-firing capability and converting the boiler to fire natural gas with No. 2 fuel oil as backup. EPA is approving this SIP revision because the 1979 Consent Order is no longer required as the modified gas-fired unit can comply with all visible emission and particulate requirements in the Maryland SIP, and this 1979 Consent Order is no longer required to satisfy any applicable Federal regulations or the Clean Air Act (CAA). This action is being taken under the CAA.

**DATES:** This rule is effective on [insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number **EPA-R03-OAR-2013-0013** by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. E-mail: [mastro.donna@epa.gov](mailto:mastro.donna@epa.gov)

C. Mail: EPA-R03-OAR-2013-0013, Donna Mastro, Acting Associate Director , (215) 814-2777, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. **EPA-R03-OAR-2013-0013**. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Maria Pino, Air Protection Division, Project officer, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The 1979 Consent Order provided an exception to Maryland's fuel burning regulations for Mount Saint Mary's College to allow the construction of a 25 million British Thermal Units (BTU) per hour coal-fired boiler. The specific regulations of concern for the coal-fired boiler at Mount Saint Mary's College were: COMAR 10.18.03.02B (requirement for zero visible emissions); COMAR 10.18.03.03B(2)b (requirement that particulate matter (PM) not exceed 0.03 grains per dry standard cubic foot (gr/dscf)); COMAR 10.18.03.03B(2)c(2) (requirement for

dust collectors); and COMAR 10.18.03.06D(2) (prohibition of small solid-fuel boilers). MDE approved the construction of the coal-fired boiler because the coal-fired boiler was in a rural area and minimal impact on air quality was expected from particulate emissions from the boiler. The boiler was required to meet COMAR 10.18.03.02A (requirement not to exceed 20% opacity) and COMAR 10.18.03.03B(3) (requirement that PM emissions not exceed 0.10 gr/dscf). The 1979 Consent Order between Mount Saint Mary's College and Maryland was approved by EPA into the Maryland SIP on March 18, 1980. 45 FR 17144 (approving the 1979 Consent Order into Maryland SIP because no ambient air quality standards would be violated by operation of the boiler). Subsequently, in January 1983, Mount Saint Mary's College installed multicyclones on the boiler for additional control of PM.

## **II. Summary of the SIP Revision**

On November 19, 2012, MDE submitted a revision (#12-05) to remove the 1979 Consent Order from Maryland's SIP because the coal-fired F. Keeler Boiler has been converted to fire natural gas with No. 2 fuel oil as backup. On July 18, 2000, MDE issued a permit to convert the boiler to natural gas with No. 2 oil as backup fuel. The converted gas-fired boiler is able to comply with all Maryland regulations, including visible emissions standards. Therefore, the 1979 Consent Order is no longer required and MDE has requested that it be removed from the Maryland SIP.

## **III. Final Action**

EPA's review of the SIP revision submitted by MDE on November 19, 2012 indicates that the 1979 Consent Order is no longer required as the modified gas-fired boiler is able to comply with

all applicable Federal regulations and the Maryland SIP. Therefore, EPA is approving the SIP revision submitted by MDE on November 19, 2012 to remove the 1979 Consent Order. The 1979 Consent Order is no longer required to satisfy any applicable Federal regulations or the CAA. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on [insert date 60 days from date of publication in the Federal Register] without further notice unless EPA receives adverse comment by [insert date 30 days from date of publication in the Federal Register]. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rulemaking action based on the proposed rule. EPA will not institute a second comment period on this rulemaking action. Any parties interested in commenting must do so at this time.

#### **IV. Statutory and Executive Order Reviews**

##### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

## **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that

EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action to approve a revision to the Maryland SIP to remove the Mount Saint Mary's College 1979 Consent Order from the SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: January 25, 2013.

W. C. Early,  
Acting Regional Administrator,  
Region III.



40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V—Maryland

§ 52.1070 [Amended]

2. In § 52.1070, the table in paragraph (d) is amended by removing the entry for Mt. Saint Mary's College.

[FR Doc. 2013-02817 Filed 02/07/2013 at 8:45 am; Publication Date: 02/08/2013]